

**STANDARD APPLICATION**  
**Harford County**  
**Board of Appeals**  
Bel Air, Maryland 21014

MAR 23 2006

Case No. 5530  
Date Filed 3/20/06  
Hearing Date \_\_\_\_\_  
Receipt \_\_\_\_\_  
Fee \$450.00

Shaded Areas for Office Use Only

**Type of Application**

- ☐ Administrative Decision/Interpretation  
☐ Special Exception  
☐ Use Variance  
☐ Change/Extension of Non-Conforming Use  
☐ Minor Area Variance  
☐ Area Variance  
☐ Variance from Requirements of the Code  
☐ Zoning Map/Drafting Correction

**Nature of Request and Section(s) of Code** \_\_\_\_\_

CASE 5530 MAP 19 TYPE Use Variance

ELECTION DISTRICT 05 LOCATION 3501 Scarboro Road, Street 21154

BY John Bush, 3501 Scarboro Road and

Annie Walker, 2841 Forge Hill Road, Bel Air 21015

Appealed because a use variance pursuant to Sec. 267-32 Table I of the Harford  
County Code to allow the removal of the existing dwelling that was purchased by the  
family in 1948 and replace it with a new log cabin single family dwelling in the GI  
District, requires approval by the Board.

**NOTE:** A pre-conference is required for property within the NRD/Critical Area or requests for an Integrated Community Shopping Center, a Planned Residential Development, mobile home park and Special Exceptions.

**Owner (please print or type)**

Name John R. Bush Phone Number (410) 838-3618  
Address 3501 Scarboro Rd Street md 21154  
Street Number Street City State Zip Code

Co-Applicant Annie Walker Phone Number (410) 838-3618  
Address 2841 Forge Hill Rd Bel Air md 21015  
Street Number Street City State Zip Code

Contract Purchaser \_\_\_\_\_ Phone Number \_\_\_\_\_  
Address \_\_\_\_\_  
Street Number Street City State Zip Code

Attorney/Representative \_\_\_\_\_ Phone Number \_\_\_\_\_  
Address \_\_\_\_\_  
Street Number Street City State Zip Code

## Land Description

Address and Location of Property 3501 Seabrook Rd Street md 21154  
property no. A-05 - 005450

Subdivision \_\_\_\_\_ Lot Number \_\_\_\_\_

Acreage/Lot Size 3.5 AC Election District 05 Zoning GI

Tax Map No. 19 Grid No. 3A Parcel 21 (Water) Sewer: Private ☒ Public \_\_\_\_\_

List ALL structures on property and current use: old house, shed - no current use

Estimated time required to present case: \_\_\_\_\_

If this Appeal is in reference to a Building Permit, state number \_\_\_\_\_

Would approval of this petition violate the covenants and restrictions for your property? \_\_\_\_\_

Is this property located within the County's Chesapeake Bay Critical Area? Yes \_\_\_\_\_ No ☒

If so, what is the Critical Area Land Use designations: \_\_\_\_\_

Is this request the result of a zoning enforcement investigation? Yes \_\_\_\_\_ No ☒

Is this request within one (1) mile of any incorporated town limits? Yes \_\_\_\_\_ No ☒

## Request

Variance

## Justification

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*If additional space is needed, attach sheet to application. In answering the above questions, please refer to the Requirements that pertain to the type of approval request. (Special Exception, Variance, Critical Area or Natural Resource District (NRD) Variance, etc.)*

We would like to keep the property at 3501 Scarborough Rd in the family, however when I-Danice Walker daughter of deceased Kathryn Bush and my father is disabled due to a stroke, attempted to get permits last Sept 05 for my son to build a lag upon on the property was shocked to be told that it wasn't possible due to being zoned G.I. My sister Mary Merds and I have decided to give the property to my son Donald K. Walker for it to stay in the family.

Our parents bought this property in 1948. Therefore zoning didn't take place until 1957. So the house that was there and is still there isn't in very good shape.

We have had two meetings with Tony Melame, Dennis and Shane.

I also went to Lance Miller to see if my request for zoning to change could be added. But they weren't accepting anymore requests. Had we been a wave of the zoning before hand I would have had my request in on time.

My parents tax bill didn't show this  
so I had no way of knowing what  
was what.

We were told at the meetings  
that he could add onto the existing  
dwelling - but it's ~~is~~ so old and  
really not very durable. So we are  
asking for a variance to change the  
zoning to agriculture so he can build  
a nice log cabin and our wish for  
the property to stay in the family  
be granted.

Sincerely,

Annie Wall

Mary Meeks

SCARBORO ROAD

S 41°30'00" W 348.00'

N 39°00'00" W 402.00'

N 47°30'00" E 343.00'

MILL GREEN ROAD

S 39°00'00" E 356.40'

153 ft

153 ft

153 ft

153 ft

153 ft

153 ft

190 ft

EX WELLO

AdB

GcC2

GcB2

EX HOUSE

TAX MAP: 19, GRID: 3A, PARCEL: 21  
ACREAGE: 3.5 AC +/-  
ZONING: GI

DATE 3-03-06

SCALE 1" = 60'

DRAWN EJS

OB 99026

HIGHLAND SURVEY  
ASSOCIATES, INC.

4501 FAWN GROVE ROAD  
STREET, MARYLAND 21154

410-836-1238

SITE PLAN  
LANDS OF

J. KENNETH BUSH

3501 SCARBORO ROAD

FIFTH ELECTION DISTRICT  
HARFORD COUNTY MARYLAND

DAVID R. CRAIG  
HARFORD COUNTY EXECUTIVE

LORRAINE COSTELLO  
DIRECTOR OF ADMINISTRATION



C. PETE GUTWALD  
DIRECTOR OF PLANNING & ZONING

## HARFORD COUNTY GOVERNMENT

Department of Planning and Zoning

April 7, 2006

### STAFF REPORT

#### BOARD OF APPEALS CASE NO. 5530

APPLICANT/OWNER: John Bush  
3501 Scarboro Road, Street, Maryland 21154

Co-APPLICANT: Annie Walker  
2841 Forge Hill Road, Bel Air, Maryland 21015

REPRESENTATIVE: Applicants

LOCATION: 3501 Scarboro Road  
Tax Map: 19 / Grid: 3A / Parcel: 21  
Election District: Five (5)

ACREAGE: 3.5 Acres

ZONING: GI/General Industrial

DATE FILED: March 20, 2006

HEARING DATE: May 10, 2006

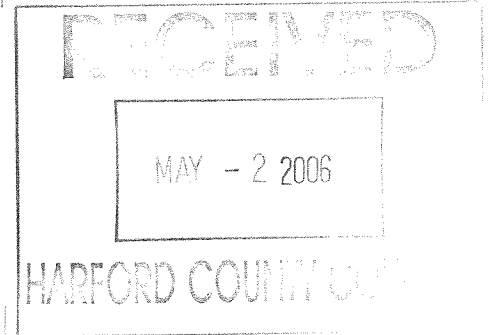
#### APPLICANT'S REQUEST and JUSTIFICATION:

##### Request:

"Variance."

##### Justification:

See ATTACHMENT 1



*Preserving Harford's past, promoting Harford's future*

MY DIRECT PHONE NUMBER IS (410) 638-3103

220 SOUTH MAIN STREET BEL AIR, MARYLAND 21014 410.638.3000 • 410.879.2000 • TTY 410.638.3086 • [www.harfordcountymd.gov](http://www.harfordcountymd.gov)

THIS DOCUMENT IS AVAILABLE IN ALTERNATIVE FORMAT UPON REQUEST.

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Board of Appeals Case Number 5530

John Bush and Annie Walker

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### **CODE REQUIREMENTS:**

The Applicants are requesting a Use Variance pursuant to Section 267-32, Table I of the Harford County Code to allow the removal of the existing dwelling that was purchased by the family in 1948 and replace it with a new log cabin single family dwelling in the GI/General Industrial District.

Enclosed with the report is a copy of Section 267-32, Table I of the Harford County Code (Attachment 2).

### **LAND USE and ZONING ANALYSIS:**

#### Land Use – Master Plan:

The Applicant's property is located in the northeast portion of the County west of the Village of Dublin, on the northeast corner of Scarboro Road and Mill Green Road. A location map and a copy of the Applicant's site plan are enclosed with the report (Attachments 3 and 4).

The property is located outside of the Development Envelope. The predominant land use designation in this area of the County is Agricultural. The Natural Features Map reflects parks, the Deer Creek Scenic River District, Sensitive Species Project Review Areas, Maryland Environmental Trust Easements, Agricultural Preservation Easements and Districts and Rural Legacy Areas. The subject property is designated as Agricultural which is defined by the 2004 Master Plan as:

***Agricultural** – Areas where agriculture is the primary land use, but where development rights are available. Residential development is possible at a density of 1.0 dwelling unit for every 10 acres. Commercial uses within this area are intended to serve the agriculture industry or residents of the area while maintaining the character of the surrounding countryside.*

Enclosed with the report are copies of portions of the 2004 Land Use Map and the Natural Features Map (Attachments 5 and 6).

#### Land Use – Existing:

The existing land uses conform to the overall intent of the 2004 Master Plan. The predominant land use is Agriculture which includes cropland, pastureland and large areas of dense woodland. Residential uses include single family dwellings. The property adjoining the subject site has been used as a quarry (which has been abandoned for many years) and the manufacturing of Talc. There is one other industrially zoned property that is used for storage. The topography of the area ranges from rolling to steep especially near the stream valleys and their many tributaries.

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John Bush and Annie Walker

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A copy of the aerial photograph and a topography map are enclosed with the report (Attachments 7 and 8).

The property is square in shape with frontage on Scarboro Road and Mill Green Road. The topography of the subject lot rises up from both roads towards the western rear corner of the property. Improvements consist of an older 2-story frame dwelling, a wooden outbuilding sitting to the left of the dwelling and a well and septic system. There is a gravel driveway that extends to the right side of the dwelling. Trees line the Mill Green Road side with dense woods to the rear and left side of the property. Enclosed are site photographs along with an enlargement of the aerial photograph (Attachments 9 and 10).

### Zoning:

The zoning classifications in the area are generally consistent with the 2004 Master Plan as well as the existing land uses. The predominant zoning classification is AG/Agricultural. Within and around the Village of Dublin to the east are areas of VR/Village Residential, VB/Village Business and B3/General Business Districts. The subject property as well as several other properties in the immediate area are zoned GI/General Industrial (Attachment 11).

The subject parcel existed prior to zoning which was established in Harford County in 1957. The property as it existed at that time was zoned M2/General Industrial District and remained so until 1982 when the zoning designation of M2 was changed to GI/General Industrial. Enclosed are copies of the 1957, 1989 and 1997 zoning maps (Attachments 12, 13 and 14).

### SUMMARY:

The Applicants are requesting a Use Variance pursuant to Section 267-32, Table I of the Harford County Code to allow the removal of the existing dwelling that was purchased by the family in 1948 and replace it with a new log cabin single family dwelling in the GI/General Industrial District.

The courts have stated that a use variance changes the character of the zoning district and neighborhood and the burden is more difficult to prove than merely an argument of undue hardship. To prove hardship for a use variance, the following criteria must be met:

1. *The Applicant must be unable to secure a reasonable return or make any reasonable use of the property (mere financial hardship or opportunity for greater profit is not enough).*
2. *The difficulties or hardships are peculiar to the subject property in contrast with other properties in the zoning district.*
3. *The hardship was not the result of the applicant's own actions.*



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The courts have also stated that, if the property cannot reasonably be adapted to a use in conformity with the zoning restrictions due to unique circumstances, any hardship may be relieved through the variance procedure.

The Department finds that there is sufficient argument for uniqueness to justify the requested variance. The property has been owned by the applicants' family since the 1940s. The dwelling was constructed prior to 1957 and has been used as a residence since that time. The dwelling is recognized as a nonconforming use and would be permitted to remain. The applicants could also expand the dwelling up to 50% of its current size with Board of Appeals approval. However, the dwelling is very small and has reached a condition where it needs to be replaced. The variance, if approved, will not change what has been the historic use of this property.

The applicants were not aware of the zoning of the property until they came to the Department to inquire about obtaining a building permit. It does not appear that the applicants requested the current zoning of the property. The property, along with the adjacent parcels, was zoned M2/Heavy Industry in 1957. The adjoining property was owned by E.L. Dinning and was used as a quarry and manufacturing plant for talc (Maryland Talc). In 1982 this zoning district was changed to GI/General Industrial. The subject property is only 3.5 acres in size and was apparently never part of the quarry or manufacturing operation.

Given the size of the property and the close proximity of adjacent dwellings, the use of this property for industrial purposes may not be appropriate. The construction of a new dwelling would be compatible with the Land Use Plan and adjacent residential uses.

### **RECOMMENDATION and or SUGGESTED CONDITIONS:**

The Department of Planning and Zoning recommends that the requested variance be approved, subject to the Applicants obtaining all necessary permits for the removal of the existing dwelling and the construction of the new dwelling.



Dennis J. Sigler, Coordinator  
Zoning & Board of Appeals Review



Anthony S. McClune, AICP  
Deputy Director, Planning and Zoning

DJS/ASM/jf